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# **Great Expectations: Millennial Lawyers and the Structures of Contemporary Legal Practice**

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## **ABSTRACT:**

This paper presents the findings of the first empirical study of the experiences of young lawyers who have entered an increasingly uncertain profession following a highly competitive education and recruitment process. These ‘Millennial lawyers’ are framed by a narrative of ‘difference.’ This ‘difference’ is commonly articulated negatively and as a challenge to organisational and professional norms. However, our findings suggest a more complex reality.

In its synthesis of work on structure and agency, with the temporal focus required by generational sociology, this paper advances an original approach to the analysis of organisational and professional change within contemporary legal practice. Drawing on new empirical research, it demonstrates that although our sample shares many field-level expectations, there is also considerable stress, unhappiness and discomfort. This is generated by a complex interaction between their expectations of practice, and the structuring properties of the field. Thus, the capacity for organisational and professional change is more comprehensively understood within a temporal frame.

This paper challenges academic and professional paradigms of generational change within the legal field. It concludes with recommendations for legal educators and the profession which foreground the complexity of Millennial lawyers’ expectations of practice.

## INTRODUCTION

Legal services within England and Wales have experienced major transformations, including regulatory disruption, demographic diversity, marketisation and technological innovation; all of which challenge organisational and professional norms.<sup>1</sup> Concurrently, entrants to the profession - ‘Millennial lawyers’ – are depicted as a challenge for law firms, in terms of their capacity to work hard, to a high standard and within firms’ expectations.<sup>2</sup>

The entry into the legal profession of a cohort holding different characteristics and values from that which precedes it raises two questions. First, whether there are, in fact, generationally distinct values within a professional group and, secondly, what capacity these actors possess to challenge accepted professional practices. This paper’s primary focus is on the second of these questions, but it also highlights the values of the younger lawyers in our study and the relationship of these values to prevailing sector expectations and to those captured in earlier studies. Both questions are significant since academic research and the legal profession draw on the discourse of generational renewal. For instance, it is suggested problems within the profession (such as disadvantages experienced by women) will be addressed naturally over time, by the arrival of new generations demanding change.<sup>3</sup> While the existence of generationally distinct values can only be tested by a cross-generational study, which is beyond the scope of this paper, the capacity of younger lawyers to challenge accepted professional practice can be examined through an in-depth investigation of how younger lawyers interact

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<sup>1</sup> The Law Society *The Future of Legal Services* (London: Law Society, 2016); H Sommerlad, A Francis, J. Loughrey and S Vaughan ‘England & Wales: A Legal Profession in the Vanguard of Professional Transformation?’ in R Abel and O Hammerslev, with H Sommerlad, and U Schultz (eds.) *Lawyers in 21<sup>st</sup> Century Societies* (Oxford: Hart, 2020)

<sup>2</sup> J Jacobowitz, K Lachter, and G Morello ‘Cultural Evolution or Revolution? The Millennial’s Growing Impact on Professionalism and the Practice of Law’ (2016) 23 *The Professional Lawyer* 20, p21

<sup>3</sup> L Webley, and L Duff ‘Women Solicitors as a Barometer for Problems within the Legal Profession Time to Put Values Before Profits?’ (2007) 34 *Journal of Law & Society* 374-402, p381  
<https://www.lawsociety.org.uk/news/blog/international-womens-day-two-legal-sector-views/>

with organisational and professional norms.<sup>4</sup> This is crucial at a time when the profession and legal education (in light of the Solicitors Qualifying Examination (SQE)) face uncertainty and change.<sup>5</sup> Our analysis is supported by literature from generational sociology, which suggests ‘people from a birth cohort... may have similar values, characteristics and beliefs that differ from other birth cohorts.’<sup>6</sup> We argue a generational lens provides a richer understanding as to how and when organisational and professional cultures change and the capacity of individual lawyers to effect that change. While the ‘Millennial’ term is problematic, and we are sceptical about many of the claims of generational sociology, ‘Millennial lawyer’ is deployed as shorthand to discuss the lawyers in this paper. It should also be noted that this label is relied upon within the profession.<sup>7</sup>

This paper contributes to our understanding of the realities of contemporary legal practice. It draws on the first empirical research to focus on the experiences of younger lawyers entering an uncertain profession from a challenging higher education (HE) environment, with high levels of personal debt.<sup>8</sup> There is limited work closely examining the current organisational context of training and how younger lawyers navigate these challenges.<sup>9</sup> The Junior Lawyers Division’s (JLD) annual surveys provide a snapshot of stress and anxiety,<sup>10</sup> but only provide

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<sup>4</sup> See, for example, L Krakauer and C Chen ‘Gender barriers in the legal profession: Implications for career development of female law students’ (2003) 40 *Journal of Employment Counselling* 65, which provides such an examination of the careers of female law students.

<sup>5</sup> The proposed changes remove the status of the Qualifying Law Degree, while implying some providers may increase vocational preparation within university education, <https://sra.org.uk/sra/policy/sqe.page>

<sup>6</sup> A Green, L Eigel, J James, D Hartmann and K McLean ‘Multiple Generations in the Workplace: Exploring the Research, Influence of Stereotypes, and Organizational Applications’ in J Hedge and W Borman (eds.) *Oxford Handbook of Work and Aging* (Oxford: OUP, 2012) p484

<sup>7</sup> <https://www.lawgazette.co.uk/news/millennial-lawyers-wont-be-wedded-to-firms-in-future/5059539.article>

<sup>8</sup> See Webley and Duff (above n4); A Boon (2005) ‘From public service to service industry: the impact of socialisation and work on motivation and values of lawyers’ 12 *International Journal of the Legal Profession* 229; and T Williams and T Goriely ‘Recruitment and Retention of Solicitors in Small Firms’ *Research Study* 44 (London: The Law Society, 2003) for more historical empirical research.

<sup>9</sup> For Australian work see R Field, J Duffy and C James (eds), *Promoting Law Student and Lawyer Well-Being in Australia and Beyond* (London: Routledge, 2016), particularly chapter seven.

<sup>10</sup> Junior Lawyers Division *Resilience and Wellbeing Survey* (London: The Law Society, 2019)

data at a broad level and add little to our understanding of interactions with law firms' management. Given the increasing attention paid to Millennials in management and legal press,<sup>11</sup> this data is important in capturing how Millennial lawyers themselves articulate their values and beliefs, rather than relying on anecdotes of older lawyers.

Established literature recognises the differential ability of actors to effect change in professional fields.<sup>12</sup> This paper confirms the importance, in the context of research on professions and organisations, of taking account of how structure and agency are shaped by temporal context.<sup>13</sup> After setting out the context in which new lawyers have studied and qualified and providing detail on our research methods, the paper argues younger lawyers' complex expectations of practice lead to a contradictory navigation of the structures of the field with evidence of both resonance with primary practice values, alongside push-back and discomfort. Change within established field of legal practice thus appears likely to be affected not only by key actors' field position but also their socio-historical context.

## GENERATIONAL CHANGE AND THE STRUCTURES OF THE FIELD

Institutional fields, such as legal services, are structured by 'organising principles that ... define what kind of actors are authorised to make claims, [and] shape and constrain the behavioural possibilities of actors.'<sup>14</sup> Fields, in this Bourdieusian sense, comprise the actors, institutions

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<sup>11</sup> S Blakey *What Millennial Lawyers Want: A Bridge From the Past to the Future of Law Practice* (2018) <https://www.law.com/corpocounsel/2018/10/25/what-millennial-lawyers-want-a-bridge-from-the-past-to-the-future-of-law-practice/?slreturn=20180930093544>

<sup>12</sup> M Archer *Realist Social Theory: The Morphogenic Approach* (Cambridge: Cambridge University Press, 1995), p235

<sup>13</sup> For a discussion of the influence of national context on entry into the legal profession, see R Dinovitzer and M Dawe 'Early legal careers in comparative context: evidence from Canada and the United States' (2016) 23 *International Journal of the Legal Profession* 83

<sup>14</sup> M Lounsbury, 'Institutional Transformation and Status Mobility: The Professionalization of the Field of Finance' (2002) 43 *Academy of Management Journal* 255, p255

and practices involved in a particular sphere of cultural production and all of the structures, hierarchies and constraints within it.<sup>15</sup> Practices reflecting the ideology of previous generations are embedded within institutions, ‘accepted as...inherent’,<sup>16</sup> and ‘taken for granted.’<sup>17</sup> ‘Professionalism’ represents such an organising principle:<sup>18</sup> operating as a disciplining discourse capable of shaping an employee’s conduct,<sup>19</sup> it can be seen in organisations’ routines, such as the time-recording associated with billable hours.<sup>20</sup> Thus the actions of organisations ‘produce and reproduce the world they inhabit.’<sup>21</sup> For Maiman et al., the ‘workplace [i]s the crucial determinant of lawyer behaviour,’<sup>22</sup> and it was common for Partners and some Human Resources (HR) Directors in our study to reference ‘observational practices’ as a way junior lawyers learned what was expected of them. However, it should be recognised that both organisations and their wider fields are not static, but respond to macro and meso-level social change.<sup>23</sup>

Archer highlights how agents may produce structures, which in turn influence the activities of actors within the field.<sup>24</sup> The extent to which such agency may be possible is also linked to field position<sup>25</sup> which affects the basis upon which willingness and ability to affect institutional

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<sup>15</sup> P Bourdieu *Outline of a Theory of Practice* (Cambridge: Cambridge University Press, 1977) , p78, p83

<sup>16</sup> R Nelson and D Trubek ‘Arenas of Professionalism’ in R Nelson, D Trubek and R Solomon (eds.) *Lawyers’ Ideals/Lawyers Practices: Transformations in the American Legal Profession* (Ithaca and London: Cornell University Press, 1992) 177, p212

<sup>17</sup> Bourdieu, above n22, p80

<sup>18</sup> R Suddaby, Y Gendron, and H Lam ‘The Organizational Context of Professionalism in Accounting’ (2009) 34 *Accounting, Organizations and Society* 409, p410

<sup>19</sup> V Fournier ‘The appeal to ‘professionalism’ as a disciplinary mechanism’ (1999) 47 *Sociological Review*, 280, p290

<sup>20</sup> A Brown and M Lewis (2016) ‘Identities, Discipline and Routines’ (2016) 32 *Organization Studies* 871, p880

<sup>21</sup> A Mutch, R Delbridge, and M Ventresca ‘Situating Organizational Action: The Relational Sociology of Organizations’ (2006) 13 *Organization* 607, p608

<sup>22</sup> R Maiman, C McEwen and L Mather ‘The future of legal professionalism in practice’ (1999) 2 *Legal Ethics* 71, p74

<sup>23</sup> P Bourdieu and L Wacquant *An Invitation to Reflexive Sociology* (Cambridge: Polity Press, 1992) p133

<sup>24</sup> Archer above n19, pp247-93

<sup>25</sup> J Batilana ‘Agency and Institutions: The Enabling Role of Individuals’ Social Position’ (2006) 13 *Organization* 653, p656

change may occur.<sup>26</sup> Webley and Duff, for example, argue new cohorts of men may enter the legal profession and demand different ways of working to produce cultural change within law firms.<sup>27</sup> This narrative is echoed by the professional association and law firms.<sup>28</sup>

Generational sociology points to definite modes of behaviour, feeling and thought within a particular generation,<sup>29</sup> with formative experiences shaping those values, thoughts and feelings.<sup>30</sup> For example, Baby boomers are said to border on the workaholic,<sup>31</sup> and stay with one company for years. In the UK, we can point to the ‘Summer of Love’ and 1970s’ industrial unrest as formative collective experiences. A new generational cohort entering an institutional field is likely to hold new beliefs and values which may, in time, shape the structures of that field.

Potentially just as significant are the prevailing socio-economic rationalities framing a particular generation. From the late 1970s onwards, the UK, like much of the Western world was transformed by neo-liberalism, with its focus on the privatisation of the public sector, a growing emphasis on business rather than civic culture, consumers rather than citizens and the role of globalisation in accelerating the rise of the corporate sectors.<sup>32</sup> Within this, universities are presented as engines of economic growth for the knowledge economy.<sup>33</sup> Millennials were born, educated and have reached the workplace during this period.

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<sup>26</sup> Mutch, Delbridge and Ventresca above n28, p616.

<sup>27</sup> Webley and Duff above n4, p400-401

<sup>28</sup> <https://www.lawsociety.org.uk/support-services/practice-management/diversity-inclusion/diversity-and-inclusion-case-studies-large-firms/>

<sup>29</sup> K Mannheim, 'The Problem of Generations' in K Mannheim, *Essays on the Sociology of Knowledge* (London: RKP, 1952) p291

<sup>30</sup> J Pilcher 'Mannheim's Sociology of Generations: An Undervalued Legacy' (1994) 45 *The British Journal of Sociology* 481, pp482-3

<sup>31</sup> B Kupperschmidt 'Multigeneration Employees: Strategies for Effective Management and Leadership' (2000) 19 *Health Care Manager* 65, p68

<sup>32</sup> S Sassen *Globalization and its Discontents* (New York: New Press, 1999)

<sup>33</sup> Lord Leitch *Prosperity for all in the Global Economy: World Class Skills: Final Report* (2006) p7

Millennials were born between 1980 and 2000,<sup>34</sup> and their perceived characteristics include high levels of narcissism/self-esteem<sup>35</sup> and a need for attention.<sup>36</sup> There is a burgeoning market for management guides on the organisational challenges posed by Millennials.<sup>37</sup> Some present the issues neutrally; in terms of simply managing a large cohort mix.<sup>38</sup> Others highlight challenges; for example Jenkins suggests ‘that at times, they appear more demanding than previous generations’,<sup>39</sup> and Howe and Strauss note Millennials are viewed in the workplace ‘as pampered, risk averse and dependent’<sup>40</sup> or as lazy, under-motivated ‘clock punchers’.<sup>41</sup> Others note the opportunities they bring, including ‘tech savviness’ and entrepreneurialism,<sup>42</sup> or the positive benefits that may come from different generations, attitudes and values in the workplace.<sup>43</sup>

We argue generations are a neglected approach to understanding the relationship between agency and structure within contemporary legal practice. This approach enables us to explore how professionals position themselves against the ‘repertoire of possible’ actions<sup>44</sup> and the extent to which they are constrained or empowered to challenge organisational cultures by their generational context. As Foster notes, ‘it is a one word lens through which both choice and

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<sup>34</sup> E Kelan *Rising Stars – Developing Millennial Women as Leaders* (Basingstoke: Palgrave Macmillan, 2012)

<sup>35</sup> J Twenge and W Campbell, ‘Increases in positive self-views among high school students; Birth cohort changes in anticipated performance, self-satisfaction, self-liking and self-confidence’ (2008) 19 *Psychological Science* 1082, p1082

<sup>36</sup> R Manning and C Jenkins (2009) ‘Millennials or Boomers – Who fakes it the most? An investigation of generational personality traits and testing behaviors’ *Paper presented at the Annual of the Society of Industrial and Organizational Psychology*, New Orleans, cited in Green et al above n7, p488

<sup>37</sup> For example, [www.thebalance.com/tips-for-managing-millennials-1918678](http://www.thebalance.com/tips-for-managing-millennials-1918678); S Blakey above n13

<sup>38</sup> J Jenkins ‘Strategies for Managing Talent in a Multigenerational Workforce’ (2008) 34 *Employment Relations Today* 19, p26

<sup>39</sup> *Ibid*, p20

<sup>40</sup> N Howe and W Strauss ‘The next 20 Years: How customer and workforce attitudes will evolve’ (2007) 85 *Harvard Business Review* 41, p50.

<sup>41</sup> <https://www.inc.com/jt-odonnell/5-office-mistakes-costing-millennials-the-promotion.html>

<sup>42</sup> B Otey, ‘Millennials, Technology, and Professional Responsibility: Training a New Generation in Technological Professionalism (2013) 37 *Journal of the Legal Profession* 199, p202 and p212

<sup>43</sup> Green et al above n7, p493-4

<sup>44</sup> B Beagan, ‘Micro Inequities and Everyday Inequalities: ‘Race’, Gender, Sexuality and Class in Medical School’ (2001) 26 *Canadian Journal of Sociology*, 583, p600



determinism are rendered visible in the lives of others.’<sup>45</sup> Most fundamentally, a generational approach compels us to examine the socio-historical context in which values, attitudes and professional identity are formed.<sup>46</sup> Thus, generations become a ‘way of acknowledging contexts and concerns - both for the narrator and for others.’<sup>47</sup> This socio-historic focus is particularly necessary when so many of the core supports of professionalism are historically specific,<sup>48</sup> and threatened by contemporary conditions.<sup>49</sup>

There are, of course, criticisms of generational sociology, many of which we endorse. There is, for example, little consensus as to how a generation emerges, whether that be in terms of the strength of the historical events shaping the generation’s world view, the chronological ages during which a generation is most likely to be influenced and the rationale for the particular years defining a generation.<sup>50</sup> Costanza et al undertook a meta-analysis of research on generational differences and work attitudes, focussing on job satisfaction, organisational commitment and turnover.<sup>51</sup> They found little support for the ‘notion that there are systemic substantive differences between generations in work-related outcomes.’<sup>52</sup> However, the attention to socio-historic context demanded by generational sociology nonetheless provides a framework through which to understand the capacity for younger lawyers to effect change. Whether and how precise boundaries between generations can be drawn is less relevant than

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<sup>45</sup> K Foster (2013) ‘Generation and discourse in working life stories’ 64 *The British Journal of Sociology* 195, p212

<sup>46</sup> D Costanza, J Badger, R Fraser, J Severt and P Gade ‘Generational Differences in Work-Related Attitudes: A Meta-analysis’ (2012) 27 *Journal of Business and Psychology* 375, p379

<sup>47</sup> Foster, above n56, p209

<sup>48</sup> M Larson *The Rise of Professionalism* (Chicago: University of Chicago Press, 1977), p.xiv.

<sup>49</sup> K Leicht ‘Market fundamentalism, cultural fragmentation, post-modern skepticism, and the future of professional work’ (2016) 3 *J. of Professions and Organizations* 103, p104

<sup>50</sup> Green et al above n7, p490; Costanza et al above n57, p380

<sup>51</sup> Ibid, p376

<sup>52</sup> Ibid, p382

understanding the context in which the younger lawyers have studied and worked – particularly when significant uncertainty and change characterise these environments.

## THE MILLENNIAL CONTEXT: MARKETISATION, UNCERTAINTY AND LIMINAL LEGAL EMPLOYMENT

This section foregrounds the context within which the data that follows must be understood. Neo-liberalism has framed Millennial lawyers' educational journey and their entry into the legal graduate marketplace. A key element of neo-liberalism is the extension of market imperatives into public sectors.<sup>53</sup> Marketisation brings with it a focus on competition and measurement, both at an individual level and for organisations and institutions. The legal sector is experiencing further disruption – a key feature of which is increasing uncertainty and flexibilisation of legal roles, particularly at entry level. This is the socio-historical context within which younger lawyers have lived, studied, and now work.<sup>54</sup>

Millennial lawyers have faced regular assessment, comparisons with peers and competition throughout their education.<sup>55</sup> Successive HE reforms advanced a marketised agenda, with league tables measuring institutional performance, and students aware of the impact of attendance at 'gold' institutions on their employability.<sup>56</sup> Social media enables students to assess their standing against peers, and progress through undergraduate study can be an

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<sup>53</sup> D Benbow 'Juridification, new constitutionalism and market reforms to the English NHS' (2019) 43 *Capital and Class* 293, p297.

<sup>54</sup> Ipsos MORI (2017) *Millennial Myth and Realities* <https://www.ipsos.com/sites/default/files/2017-05/ipsos-mori-Millennial-myths-realities-full-report.pdf>, p8

<sup>55</sup> See <https://www.theguardian.com/education/2017/sep/14/sats-for-seven-year-olds-in-england-to-be-scrapped> and L Archer 'Diversity, equality and higher education: a critical reflection on the ab/uses of equity discourse within widening participation' (2007) 12 *Teaching in Higher Education* 635, p641

<sup>56</sup> Gold (and other quality marks) now institutionalised by TEF process - <https://www.officeforstudents.org.uk/advice-and-guidance/teaching/tef-outcomes/#/>

uncomfortable process of stress and anxiety.<sup>57</sup> From an early stage, the focus has been on the self, with tools and data increasingly available to measure performance against peers and institutions.

These processes are exacerbated within the legal sector.<sup>58</sup> The number of law students (not all of whom, of course, aspire to enter the profession) has grown exponentially, to just over 50,000 undergraduate students.<sup>59</sup> The scale of competition to secure training contracts is reinforced by training and recruitment material ostensibly designed to support students,<sup>60</sup> with many unsuccessful applicants pursuing paralegal or non-legal opportunities upon graduation.<sup>61</sup> This competition is reinforced by shifts in the legal labour market. There is increased flexibilisation through the use of short-term contracts,<sup>62</sup> but also growing use of paralegals,<sup>63</sup> to resource fluctuations in short-term business needs and reconfigurations in legal work.<sup>64</sup> These roles, however, remain ill-defined, hard to quantify and, for those in them, represent ambiguity and uncertainty in terms of longer-term progress within the organisation. The precise boundaries between lawyer and paralegal are blurred through the use of legal apprenticeships, which incorporate further flexibility between work and study. In this sense then, paralegal roles are

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<sup>57</sup> A Denovan, and A MacAskill 'Stress and Subjective Well-Being Among First Year UK Undergraduate Students' (2017) 18 *A Journal of Happiness Studies*, 505, pp506-507; L Bleasdale and S Humphreys *Undergraduate Resilience Project Report* (Leeds: LITE Fellowship Report, 2018) p49

<sup>58</sup> See K Sheldon and L Krieger 'Does Legal Education Have Undermining Effects on Law Students? Evaluating Changes in Motivation, Values and Wellbeing' (2004) 22 *Behavioural Sciences and the Law* 261; and W Larcombe and K. Fethers, 'Schooling the Blues: An Investigation of Factors Associated with Psychological Distress Among Law Students' (2013) 36 *UNSWLJ* 390 for an examination of law student wellbeing within the American and Australian contexts.

<sup>59</sup> <https://www.hesa.ac.uk/data-and-analysis/students/what-study>

<sup>60</sup> <https://www.chambersstudent.co.uk/law-firms/getting-a-training-contract/what-are-legal-recruiters-looking-for>

<sup>61</sup> See Bleasdale and Humphreys (above n69, pp31-32 and pp35-37) on the impact such comparisons between students and graduates can have on well-being.

<sup>62</sup> R Wilson 'Future Workforce Demand in the Legal Services Sector' (2012) 02/2012 *Discussion Paper, LETR*, pp8-9

<sup>63</sup> *Ibid*, pp10-11

<sup>64</sup> For example of such fluctuations see - <https://www.burges-salmon.com/careers/legal-careers/flexible-lawyer-opportunities/> and <https://www.cityam.com/zero-hours-contracts-godsend-high-flying-professionals/>

‘betwixt and between’;<sup>65</sup> neither student nor trainee, neither successful young graduate nor frustrated job-seeker. Trainees have always occupied similarly liminal roles, transitioning to qualified solicitor<sup>66</sup> while uncertain as to whether their future employment will be confirmed. However, the liminal ambiguity of millennial trainees, apprentices and paralegals is compounded by the uncertain socio-historical context. First, the individualisation experienced by the liminal employee<sup>67</sup> is heightened in the contemporary landscape, and secondly their personal uncertainties are reinforced by wider sector disruption.

Old-level disruptions include the Legal Services Board’s and the Solicitors Regulation Authority’s (SRA) embrace of a de-regulatory agenda of market liberalisation.<sup>68</sup> Other elements of uncertainty include the arrival of new legal services providers,<sup>69</sup> the growth of new technologies<sup>70</sup> and bureaucratisation of the organisation of legal work.<sup>71</sup> Competitive pressures have resulted in firm closures, mergers and job losses.<sup>72</sup> Other recent patterns include, on the one hand, improved diversity and equality, but, on the other, an intensification of the pre-existing segmentation of the labour market.<sup>73</sup> The environment is not a stable one, even for more permanent employees – but the context is likely to be particularly uncomfortable for more liminal employees.

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<sup>65</sup> For discussion of the ‘liminal’ employee in organisations see further, C Garsten ‘Betwixt and Between: Temporary Employees as Liminal Subjects in Flexible Organizations’ (1999) 20 *Organization Studies* 601 and N Beech ‘Liminality and the practices of identity reconstruction’ (2011) 64 *Human Relations* 285

<sup>66</sup> A Boon above n10, p242

<sup>67</sup> Garsten above n77, p.611

<sup>68</sup> Legal Services Board *A vision for legislative reform of the regulatory framework for legal services in England and Wales* (2016 September), p3

<sup>69</sup> Law Society above n1, pp48-53

<sup>70</sup> R Susskind and D Susskind *The Future of the Professions: How Technology Will Transform the Work of Human Experts* (Oxford: Oxford University Press, 2015)

<sup>71</sup> D Muzio and S Ackroyd, ‘On the Consequences of Defensive Professionalism: Recent Changes in the Legal Labour Process’ (2005) 32 *J. of Law and Society* 615, p620

<sup>72</sup> <https://www.thelawyer.com/ince-gordon-dadds-consultation/>

<sup>73</sup> S Aulakh, A Charlwood, D Muzio, J Tomlinson and D Valizade, *Mapping advantages and disadvantages: Diversity in the legal profession in England and Wales* (2017) <https://www.sra.org.uk/globalassets/documents/sra/research/diversity-legal-profession.pdf?version=4a1ac7>

Alongside this, young people face crises of housing, employment and associated mental health concerns, having graduated from an outcomes-focused competitive education system with significant debt.<sup>74</sup> And yet, concerns about inter-generational fairness are undercut within the popular press by a narrative depicting the ‘Millennial’ generation as ill-equipped to cope with the uncertainties of modern society<sup>75</sup> and, in particular, with contemporary legal practice. As is made clear in the data below, this narrative was echoed (with accompanying anecdotes) by some Partners and HR Directors interviewed for this project.

While the educational and professional context for Millennial lawyers is clear, little is known about how this cohort experience these challenges, how their values relate to field-level and organisational expectations and whether they are capable of affecting the structures of contemporary practice. Tomlinson et al present insightful analysis of the way in which class, gender and ethnicity frame the professional narratives of lawyers<sup>76</sup> and Sommerlad provides a compelling account of how traditional patterns of privilege have adjusted to the corporatisation of legal practice to the continued detriment of women,<sup>77</sup> but neither address the generational dimensions on which this paper focuses. Analysis of the original empirical data exploring the experiences of Millennial lawyers addresses this gap in our understanding of contemporary legal professionalism and adds complexity to the analysis of organisational and professional change.

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<sup>74</sup> <https://researchbriefings.parliament.uk/ResearchBriefing/Summary/CBP-7946#fullreport>; Institute for Fiscal Studies (2012) *Payback time? Student debt and loan repayments: what will the 2012 reforms mean for graduates?* <https://www.ifs.org.uk/comms/r93.pdf>

<sup>75</sup> Ipsos MORI above n66

<sup>76</sup> J Tomlinson, D Muzio, H Sommerlad, L Webley and L Duff, ‘Structure, agency and the career strategies of women and BME individuals in the legal profession’ (2013) 66 *Human Relations* 245

<sup>77</sup> H Sommerlad “‘A pit to put women in’: professionalism, work intensification, sexualisation and work–life balance in the legal profession in England and Wales’ (2016) 23 *International Journal of the Legal Profession* 61; H Sommerlad ‘The commercialisation of law and the enterprising legal practitioner: continuity and change’ (2011) 18 *International Journal of the Legal Profession* 73

## METHODOLOGY

The paper draws on research undertaken in 2017 in a large legal and financial services centre outside London, encompassing a variety of legal providers. While regional differences exist, the sector nonetheless provides a timely snapshot of the changing dynamics of the legal services landscape in England and Wales.<sup>78</sup>

The study explored the inter-relationship between the new generation of lawyers, organisational change and professional practice. In 2017, a questionnaire was designed and piloted with the local Law Society. The survey did not address all possible bio-demographics. Ethnicity, class and disability, in particular, would be valuable in future studies to more fully capture the intersectional complexity of lawyers' concerns. Socio-economic factors were, however, referenced as part of the participants' experiences. Issues explored included training, support, motivation for entry to the profession, drivers to move employer and workplace challenges. The survey was administered electronically to the 'Millennial lawyers,' within the city's membership; defined as 'aged 22-36 and working in a fee-earning capacity within an organisation involved in the provision of legal services.' The following provides a snapshot of the 210 respondents:

### **Table 1: INSERT TABLE ABOUT HERE**

Women were slightly over-represented compared with early career numbers nationally - 70 per cent, compared to 60 per cent new entrants.<sup>79</sup> For the majority of question responses,

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<sup>78</sup> Law Society above n1

<sup>79</sup> Aulakh et al above n89, p6.

there were not statistically significant differences, for example between gender and other demographic variables. Thus, 67 per cent of the sample reported workplace cultures as being important to them without statistically significant differences between variables.

To develop a richer understanding of how younger lawyers negotiate the challenges within the legal sector and of management responses, we conducted focus groups with thirty seven participants. These discussions were audio-recorded and professionally transcribed.<sup>80</sup> Participants were recruited from survey respondents and a follow-up call among HR Directors and Partners. We held four focus groups with key stakeholders: Millennials at smaller firms or working in-house at the Local Authority ('Millennial Group One (MG1)', containing eleven participants; seven female); Millennials at larger firms ('Millennial Group Two (MG2)', containing ten participants; six female); HR Directors (containing eight participants; six female); and Partners from a range of Law firms (containing eight participants; six female). It is worth noting that, such is the elasticity of generational boundaries,<sup>81</sup> in some cases the older Millennials were not so much younger than the more junior partners. The different focus groups thus represent perspectives within the professional and organisational structure, rather than mapping directly onto particular 'generations.' Our discussion of the Millennial lawyers' values is primarily compared to field-level expectations captured in other studies. The HR and Partner focus groups provide context and illustration rather than direct comparison on particular issues. Given the focus on the capacity to effect change, this paper primarily draws on qualitative data which draws out the underlying views and perceptions the younger lawyers held and their relationship to the field's expectations. The quantitative data is used by way of

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<sup>80</sup> We decided not to video-record the participants in order to encourage uninhibited conversation.

<sup>81</sup> Green et al above n7, p409

support and examples, rather than to demonstrate statistically significant causal relationships, for example between practice area and workplace culture.

The generational theme was introduced in the ‘call for participation.’ We acknowledge there may have been selectivity in terms of those who saw these issues as critical to core activities. Nonetheless, our analysis of the data develops from our understanding of the field<sup>82</sup> and there was strong consistency between our data, and other sources.<sup>83</sup> Nevertheless, where there are challenges to the core narrative, we have highlighted them.<sup>84</sup> The qualitative data from the focus groups was subject to thematic analysis,<sup>85</sup> before coding and identification of key illustrative quotations.

The next two sections make clear there were not significant differences in lawyers’ relationships to core narratives of professionalism. Crucially, however, among the Millennials, our data suggests a complex mix of relatively straightforward articulation of many of the key expectations of practice, alongside discomfort and unease about others.

## GOING WITH THE GRAIN OF EXPECTATIONS

There were several ways the younger lawyers worked smoothly with the grain of the field’s expectations. We should recognise, of course, that the ‘field’ of legal practice is characterised by its fragmentation,<sup>86</sup> which in turn may generate sub-fields of distinctive arenas.<sup>87</sup> However,

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<sup>82</sup> D Layder *New Strategies in Social Research* (Cambridge: Polity, 1993) p19

<sup>83</sup> For example, JLD above n12; Boon above n10; Williams and Goriely, above n10

<sup>84</sup> D Silverman, *Interpreting Qualitative Data* (London: SAGE, 5<sup>th</sup> ed, 2015) pp165-202; pp205-226

<sup>85</sup> V Braun and V Clarke ‘Using Thematic Analysis in Psychology’ (2006) 33 *Qualitative Research in Psychology* 77

<sup>86</sup> Law Society above n1.

<sup>87</sup> Nelson and Trubek above n23, p180



in the following areas at least, there was little willingness<sup>88</sup> to advocate for significant disruption to organisational and professional norms. There are three key dimensions to this. In each of the sections below, we describe the field's expectations and the close alignment of our sample with these expectations.

### **Defining Features of Legal Practice: Client Service and Stress**

The importance of the client in contemporary legal professionalism,<sup>89</sup> particularly under 'commercialised professionalism,' is well understood.<sup>90</sup> The long-hours culture is intensified,<sup>91</sup> as lawyers meet clients' demands<sup>92</sup> and demonstrate their commitment to the firm in so doing, which in turn generates challenges for lawyer wellbeing.<sup>93</sup> Within our sample, these field expectations appeared to be readily accepted by the Millennials and regarded as unlikely to change.<sup>94</sup>

Cultural change in the sector is the only way this [better work/life balance] would happen. Not going to happen. (Corporate, Male, 31-36, 2-5 Post-Qualified Experience (PQE), Survey)

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<sup>88</sup> Battilana notes the importance of willingness to drive forward change as an institutional entrepreneur, above n32, p659.

<sup>89</sup> The influence of 'commercialised professionalism' extends to other sub-fields (A Francis *At the Edge of Law: Emergent and Divergent Models of Legal Professionalism* (Aldershot: Ashgate, 2011) p38

<sup>90</sup> G Hanlon, *Lawyers, the state and the market: Professionalism revisited* (Basingstoke: Macmillan, 1999)

<sup>91</sup> M Thornton, 'Work/life or work/work? Corporate legal practice in the twenty-first century' (2016) 23 *International Journal of the Legal Profession* 13, pp18-22

<sup>92</sup> See S Vaughan and E Oakley (2016) 'Gorilla exceptions' and the ethically apathetic corporate lawyer' (2016) 19 *Legal Ethics* 50 for a discussion of the centrality of client wishes to contemporary legal practice.

<sup>93</sup> R Collier 'Wellbeing in the Legal Profession: Reflections on Recent Developments (or, what do we talk about when we talk about wellbeing?)' (2016) 23 *International Journal of the Legal Profession* 41, p50 and Thornton above n109, p34

<sup>94</sup> For similar findings from an earlier study of younger lawyers, see Boon above n10, p245. See also E Oakley and S Vaughan (2019) 'In Dependence: The Paradox of Professional Independence and Taking Seriously the Vulnerabilities of Lawyers in Large Corporate Law Firms' (2019) 46 *JLS* 83, discussing the relative vulnerabilities of lawyers in the face of all-powerful clients (p96).

... we've got to recognise that we're a service industry... we are there to assist the client, so if the client needs a meeting on a Saturday morning, sometimes you're going to have to do that. (Female, Solicitor, MG1)

If [the demand] is from the client and you actually do want to perform well for them and retain them, then I think you...lose track of the work/life balance and get on with the task in hand. (Female, Solicitor, MG2)

Respondents recognised that contemporary legal practice led naturally to these work patterns, and stress and anxiety<sup>95</sup> were accepted as the core fabric of the profession: 'it's emphasised because we're in a naturally stressful environment and our managers are probably stressed as well' (Male, Solicitor, MG2). To reject a long-hours culture and the accompanying stress would be 'unnatural';

If you acknowledge that you're not coping with it, I think that would be seen as a massive downside and almost like...You're not lawyer material. (Female, Solicitor MG2)

### **Competition and Comparison**

Competition is now, arguably, the defining discourse of the legal professional field.<sup>96</sup> Millennial lawyers recognise firms must take steps to secure and build business, develop strategy, engage in networking, be responsive to clients and so on, to maintain the firm's competitive edge:

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<sup>95</sup> Identified as a key issue facing the profession by the JLD, above n12, with '93.5% of respondents [experiencing] stress in their role in the last month with almost a quarter (24.8%) of those respondents experiencing severe/extreme levels of stress' (p3)

<sup>96</sup> Sommerlad, et al above n1

Certainly in the departments I trained in training we're obliged to go to every networking event just to get to know the contacts and things which was good. (Female, Solicitor MG1)

However, just as Hanlon identifies the 'cult of the individual' within commercialised legal professionalism<sup>97</sup> and Sommerlad points to the individualisation of career responsibility,<sup>98</sup> there was a powerful sense of individual comparison with others.<sup>99</sup> The lawyers were aware of being constantly judged, and readily compared themselves and others. Kelan et al suggest Millennials like to see co-workers as friends and to feel part of a community.<sup>100</sup> Deloitte also found Millennials 'appreciate working in a collaborative and consensual environment'.<sup>101</sup> However, the paralegals<sup>102</sup> in particular experienced difficulty in achieving a supportive and friendly working environment, finding themselves in a training contract *Hunger Games*.<sup>103</sup>

I have seen it turn friends against each other... You can't really get over it. Once you've realised that someone would stab you in the back, you're not going to get over it. (Female, Trainee MG2)

You see what another paralegal is doing and think, I need to step my game up and it gets very competitive and people that you are friends with suddenly become enemies ...you don't talk to each other about what one or the other is doing because you're all going for that one job. (Female, Trainee MG1)

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<sup>97</sup> Hanlon above n108, p142

<sup>98</sup> Sommerlad (2011) above n93, p82-3

<sup>99</sup> As with Law students - see Bleasdale and Humphreys above n69, pp35-37

<sup>100</sup> Centre for Women in Business at London Business School (2014) *The Reflexive Generation – Young Professionals' Perspectives on Work, Career and Gender* (<http://www.citywomen.co.uk/wp-content/uploads/2014/04/Generation-Y-Perspectives-on-Work.pdf> at p4)

<sup>101</sup> Deloitte *The 2017 Deloitte Millennial Survey: Apprehensive Millennials: seeking stability and opportunities in an uncertain world* <https://www2.deloitte.com/content/dam/Deloitte/global/Documents/About-Deloitte/gx-deloitte-Millennial-survey-2017-executive-summary.pdf> at p17)

<sup>102</sup> In England and Wales, a large number are law or Legal Practice Course graduates performing routinised tasks while seeking training contracts or pupillages.

<sup>103</sup> *The Hunger Games* is a series of novels (and films) about a dystopian state within which children from different Districts take part in 'Games' – a fight to the death in which only one remains.

Not only does this contribute to stress and anxiety, it can drive up the long-hours culture:

You're not necessarily seeing the other work the paralegals are doing but you do know if they're in the office later than you or earlier than you, so that's the only way you can really compete. (Female, Trainee MG1)

Although the Partner and HR groups were clear about the distinction between career paralegals and the potential trainee paralegal ('The majority of our paralegals are... quasi-trainee level' (Male, HR), the tantalising possibility of a training contract, and the competition generated among paralegals, exacerbate the wider long-hours culture. The acts of comparison and ready reference to competition as a *de facto* dimension of contemporary legal professionalism appears a natural aspect of the professional identity of these Millennial lawyers. The socio-historical context of their educational journey and professional career to date is consistent with these practice values.<sup>104</sup>

### **Legal Professional Responsibility**

There was no evidence of Millennial lawyers challenging existing professional responsibility expectations associated with their role. In contrast to the ascribed characteristics of Millennials as lazy and disengaged from work,<sup>105</sup> our participants strongly articulated traditional legal professional values. They were clear they were doing 'a professional job, where they were expected to work above and beyond' (Male, Solicitor MG2), and valued their workplace culture – the 'single best thing about their current employer' among survey respondents.<sup>106</sup>

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<sup>104</sup> See Bleasdale and Humphreys above n69 on the pernicious comparisons which can happen within Law Schools, p31.

<sup>105</sup> Ipsos MORI above n66, p57 and p63

<sup>106</sup> See Fournier above n26, on the disciplining discourse of professionalism.

Undertaking the legal work itself was sufficient motivation for 78 per cent of respondents who indicated they became solicitors because of interesting work, rather than salary. There was evident pride in their professional qualification and a keen sense as to what those responsibilities meant.

I think the one thing you could never explain to someone is how you feel when you've got a professional obligation on you...the weight of it, and feeling like it can be taken away from you. (Female, Solicitor MG2)

Although not always a comfortable burden, it was one they readily assumed as part of the lawyer role.

In order to secure their positions, these lawyers had excelled throughout their educational and professional careers. Combined with the pressures of practice, the disciplining discourse of legal professionalism<sup>107</sup> and its expectation young lawyers deliver consistently high standards, irrespective of the personal cost in terms of well-being, appeared to be readily internalised – in the words of one solicitor: 'I knew what I was signing up for' (Male, Solicitor MG2). However, there was a clear sense of dissatisfaction with other elements of their working conditions.<sup>108</sup>

## DISSONANCE, DISMAY AND 'MILLENNIAL' VALUES

The preceding section highlights the Millennial lawyers' acceptance of the profession's expectations. However, a parallel story of discomfort emerges: Millennials described significant barriers to change, as a result of the strength of the field expectations and their own relatively marginal position. Again, there were three key areas.

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<sup>107</sup> Brown and Lewis above n27

<sup>108</sup> K Foster 'Disaffection rising? Generations and the personal consequences of paid work in contemporary Canada' (2013) 61 *Current Sociology* 931, p939

## **Work-Life Balance: Towards a more flexible way of working**

Work-life balance is a recurrent problem within the legal profession<sup>109</sup> and has been identified as a key concern amongst Millennials.<sup>110</sup> Although HR Directors and Partners also expressed concern with this balance ('I think it's that question that if you've got so much work that you are having to do those really long hours...that's about under-resourcing' (Female, Partner)), the Millennial lawyers explicitly articulated values which challenged accepted ways of working.

When respondents were asked what was the *one* thing their firm could do to improve their work/life balance the largest single response was 'flexible working' – 35.2 per cent.<sup>111</sup> However, Partners and HR Directors were concerned about supervision and management practices: it was here that the younger lawyers' desire to build their professional lives in different ways most starkly challenged expected ways of organising professional practice.

The stuff that leaves the door from the law firm has to be as near as perfect in order to go out to the clients. I think people are still used to 'just showing you this' before it goes out. (Male, HR)

Younger lawyers referenced situations whereby any commitment to work-life balance and flexible working on firms' part was undermined by the realities of contemporary practice, including client demands. This was exacerbated for paralegals and trainees, given the absence of control they exercised over their work, and the (often) unspoken cultures creating expectations to work longer:<sup>112</sup>

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<sup>109</sup> Thornton above n109, pp22-24; Collier above n111, p44

<sup>110</sup> Ipsos MORI above n66

<sup>111</sup> 'Flexible working patterns' was the most preferred 'perk' or 'workplace benefit' among lawyers (Scott, *Annual Salary Survey 2018* <https://www.douglas-scott.co.uk/storage/downloads/CWQh93HvwaFXTMEXjiCwy3mriG1AQHKIHHwckV7z.pdf>)

<sup>112</sup> See C Casey "Come, join our family": Discipline and integration in corporate organizational culture' (1999)

If you get an email at 9 o'clock at night and haven't picked it up and then you get in at 9 the next morning and someone says, 'oh have you not responded', it's like 'no, I haven't responded actually.' And then you get criticised for that and I don't think that's right. (Female, Solicitor MG1)

Although it is important to recognise that work-life balance should not necessarily be seen as a site of generational conflict,<sup>113</sup> there was recognition that the younger lawyers, in particular, were at the vanguard of demands for change. Fundamentally, the key challenge appears to be conflict generated by efforts to achieve a work-life balance alongside the demands of contemporary legal practice.

### **The Importance of Non-Lawyer Identity**

Although it was challenging to confront the demands of professional practice, it was important to many of the Millennial lawyers to hold on to things critical to their sense of self:

For me, it's very important to be able to feel like something other than a lawyer...I need to have another identity on my weekends. (Female, Trainee MG2)

I've just come from Corporate and I think I did lose my individuality... constantly checking my phone, checking for emails, stressing about deadlines and stressing if I'd done it properly. I stopped doing things in an evening because I thought, 'I can't be that flaky person who always cancels on everyone'...*I definitely lost sight of who I was.* (Female Trainee MG2)

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52 *Human Relations* 155 for a discussion of expectations of 'controlled, compliant and productive employees' (p174), regardless of workplace changes

<sup>113</sup> Jacobowitz, Lachter, and Morello above n2, p27

Nevertheless, participants expressed a powerful commitment to their work, profession and clients and there was a strong desire to do well on a personal level and for their firm.

If [pressure comes] from the client and you actually do want to perform well for them and retain them, then I think you kind of lose track of the work/life balance and you just get on with the task at hand (Male, Solicitor MG2)

Moreover, most Millennial focus group participants *did* aspire to partnership. However, there is not an all-consuming need to be a lawyer, or to hang their entire identity on that particular label.

That pressure of, ‘I want to be a lawyer’ and I want to go to a party and say, ‘Hey, I’m a lawyer’ - I don’t really think people give a shit about that anymore. (Male, Solicitor MG2)

I come in every day. ... Some bits I really like and some bits I hate, but isn’t that the same with everything? It doesn’t really matter what you do. You’ll always hate it in the end, but you’ve got to do it. (Female, Solicitor MG2)

### **Relational Attributes, Emotion and the desire for a new approach to Law firm management**

Discourses of law and legal practice traditionally exclude emotion.<sup>114</sup> However, a growing body of literature draws attention to this oversight, for example in work on legal ethics,<sup>115</sup> and the complex emotional labour undertaken in practice.<sup>116</sup> Oakley and Vaughan, for example,

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<sup>114</sup> C Westaby and E Jones ‘Empathy: an essential element of legal practice or ‘never the twain shall meet’? (2017) 25 *International Journal of the Legal Profession* 107, p108

<sup>115</sup> A Woolley and W Bradley ‘Legal ethics and moral character’ (2010) 23 *Georgetown Journal of Legal Ethics*, 1065, p.1066.

<sup>116</sup> J Kadowaki ‘Maintaining professionalism: emotional labor among lawyers as client advisors, (2015) 22 *International Journal of the Legal Profession*, 323



contrast the archetypal individualistic, rational view of a lawyer assumed by regulators, with the reality of the ‘relational and situational vulnerabilities of corporate lawyers.’<sup>117</sup> Similarly, emotion framed how Millennials in our sample expressed their views about legal practice to a significant extent. They expressed their observations in terms of ‘feelings’, far more so than Partners or HR Directors, and used emotional words to describe their experiences. Many of these were linked to stress, for example, the use of false deadlines ‘causing chaos in my mind’ or describing the daily battle to achieve work/life balance as an ongoing tally as to whether they were ‘winning or losing’. However, the most common emotion reported was one of guilt, which further constrains their capacity to effect change:

If you’ve got...an associate or a partner that stays all hours sometimes you can feel *guilty* leaving when nobody else has, like you’ve got to make excuse, ‘oh I’m going because I’m going to this.’ (Female, TraineeMG1)

You end up *feeling guilty* [about raising workload and stress issues] because you know everyone is in the same boat. (Male, SolicitorMG2)

Thus, we see complexity in the Millennial lawyers’ expectations of practice. They are strongly acculturated to the idea the job will be stressful, and yet the positive expectations of what being a lawyer entails (such as status, income and job satisfaction) which spurred them on through education, debt and uncertain recruitment processes, have not been met. This ‘psychological violation’<sup>118</sup> adds to their stress and causes many to question their longer-term future in the profession.

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<sup>117</sup> Oakley and Vaughan above n112, p109.

<sup>118</sup> See also G Sutton and M Griffin ‘Integrating expectations, experiences, and psychological contract violations: A longitudinal study of new professionals’ (2004) 77 *Journal of Occupational and Organizational Psychology* 493

These Millennials were explicit in their desire for a different kind of organisational culture. There was some evidence firms were making changes. For example, 80 per cent of survey respondents were positive about support offered for career development and participants cited examples of being able to ask colleagues for ad-hoc advice within open plan offices, or of regular meetings with mentors or line managers. However, the prevalent narrative was their struggle to challenge the culture of individualised responsibility for career development, with ‘weeks going by without feedback’ from supervisors. This expected way of developing legal careers was rejected by Millennial lawyers (and HR Directors). It was identified as a particular concern at the point of qualification as a solicitor; survey respondents who were 0-2 years PQE were disproportionately more likely to indicate the worst thing about their work and their firm was the lack of support. This appears to suggest an extended process of liminality – despite qualification, they do not yet feel a ‘proper’ lawyer, and as liminal organisational subjects are socially invisible to formal structures of support and guidance.<sup>119</sup> An important generational context is that Millennials’ learning through school and university has not been the apprentice model of learning by osmosis, but of clear learning objectives and feedback to support their development.<sup>120</sup> They were uncomfortable with the organisational and regulatory expectations of individualised responsibility for continuing personal development.<sup>121</sup> Millennial lawyers were also clear in their challenge to longstanding professional practices which cloud progression and promotion requirements in ambiguity,<sup>122</sup> and place responsibility squarely on the individual.<sup>123</sup>

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<sup>119</sup> See also Beech, above n77, 287.

<sup>120</sup> H Torrance ‘Assessment *as* learning? How the use of explicit learning objectives, assessment criteria and feedback in post-secondary education and training can come to dominate learning’ (2007) 14 *Assessment in Education: Principles, Policy & Practice* 281, p282

<sup>121</sup> See <https://sra.org.uk/solicitors/cpd/tool-kit/continuing-competence-toolkit.page> on individual responsibility to ensure continuing competence.

<sup>122</sup> Processes that have, for example, contributed to the difficulties women solicitors have faced in securing progression (Sommerlad (2016) above n93, p64)

<sup>123</sup> Z Bauman, ‘Chasing Elusive Society’ (2005) 18 *International Journal of Politics, Culture and Society* 123, p129.

An organisational practice which Millennial lawyers found to be particularly de-valuing, a cause of stress and a challenge to their professional autonomy was the use of ‘fake deadlines’:

I’ve seen the other side of it where artificial deadlines are set and you’re just sat there thinking, ‘This doesn’t need to be done. Why are you doing it?’ A colleague of mine...he’s in the lift with colleagues and one of them turned to the other and he said, ‘The deadline has pushed until next Friday. What do you think?’ He said, ‘Well, we’ll still get the team in over the weekend. It’s good to keep them working’. (Male, Solicitor MG2)

Millennials also reported unsympathetic responses to stress, framed as ‘my poor time-management’, and outrageous examples of sexist behaviour, including networking opportunities given on the basis of skirt length or assumptions of pregnancy. All were able to point to management behaviour which they saw as in conflict to how legal professional practice should develop. One interviewee summarised it as:

the older approaches to the management of junior staff is just no longer acceptable. I think that spans everything and the way I would summarise it is, ‘Just don’t be a dick to people. Just be nice.’ (Male, Solicitor MG2)

Many of the expectations of contemporary legal practice are articulated only informally. Millennial lawyers are attempting to push back from some of these, but the disciplining discourses of professionalism are generating feelings of stress, discomfort and guilt. The next section argues a key explanation for the Millennial lawyers’ desire for change is the socio-historical context within which their expectations of practice are developed and then betrayed.

## MILLENNIAL EXPECTATIONS AND THE REALITIES OF PRACTICE

The expectations young people have about their careers can help construct their ‘possible self;’ ‘individuals’ ideas about what they might become, what they would like to become and what they are afraid of becoming.’<sup>124</sup> This can be an important resource for students’ motivation for undertaking necessary steps to strengthen their employability.<sup>125</sup> Within a highly competitive legal recruitment market and a challenging HE, housing and employment context,<sup>126</sup> Millennial lawyers have had to draw on considerable psychological and financial resources to sustain them in pursuit of career goals. Their expectations of what practice will *actually* be like and the financial rewards and lifestyle they will enjoy are dimensions of the construction of a ‘possible self’ that can be a motivating resource during these challenges. Powerful socialisation processes reinforce messages about normative legal professional identity and professional and organisational values are transmitted through networking events,<sup>127</sup> social networks,<sup>128</sup> recruitment brochures<sup>129</sup> and work experience.<sup>130</sup>

Without longitudinal data, we do not know what expectations were held by our cohort at different stages of their education and training. Other studies indicate that the accuracy of law students’ expectations are framed by class,<sup>131</sup> and trade press perceptions of Millennials

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<sup>124</sup> H Markus and P Nurius ‘Possible Selves’ (1986) 41 *American Psychologist* 954, p954

<sup>125</sup> J Stevenson and S Clegg, ‘Possible selves: students orientating themselves towards the future through extracurricular activity’ (2011) 37 *British Educational Research J.* 231, p232

<sup>126</sup> R. Cosslett ‘I have sleepless nights’: the looming mental health crisis facing generation rent’ *The Guardian* (9<sup>th</sup> May 2018) <https://www.theguardian.com/society/2018/may/09/mental-health-crisis-generation-rent-Millennials-own-home-wellbeing>

<sup>127</sup> D Manderson and S Turner, ‘Coffee House: *Habitus* and Performance Among Law Students’ (2006) 31 *Law and Social Inquiry* 649, p657-660

<sup>128</sup> A Francis and H Sommerlad ‘Access to legal work experience and its role in the (re)production of legal professional identity’ (2009) 16 *International Journal of the Legal Profession* 63, p79

<sup>129</sup> R Collier ‘“Be Smart, Be Successful, Be Yourself”? Representations of the Training Contract and the Trainee Solicitor in Advertising by Large Law Firms’ (2005) 12 *International Journal of the Legal Profession* 51, where the message of ‘work hard, play hard’ is discussed as a focus within such brochures (p65)

<sup>130</sup> T Ginsburg and J Wolf, ‘The Market for Elite Law Firm Associates’ (2004) 31 *Florida State Law Review* 909, p930; and A Francis ‘Legal Education, Social Mobility and Employability: Possible Selves, Curriculum Intervention and the role of Legal Work Experience’ (2015) 42 *Journal of Law and Society* 173

<sup>131</sup> H Sommerlad ‘“What are you doing here? You should be working in a hair salon or something”: outsider status and professional socialization in the solicitors’ profession’ [2008] 2 *Web J. of Current Legal Issues* <<http://webjcli.ncl.ac.uk/2008/issue2/sommerlad2.html>>

indicate unrealistic expectations about the workplace.<sup>132</sup> In this study, Millennial lawyers claimed they had held reasonably well-informed expectations of practice and the Partners and HR Directors were adamant applicants who demonstrated unrealistic expectations would not have successfully navigated the recruitment process.<sup>133</sup> However, we argue there is significant evidence the Millennial lawyers felt their possible self (and the expectations which informed it) had been betrayed. This ‘psychological violation’<sup>134</sup> leads to stress, anxiety, periods of absence and, for many, contemplation of departure. This dissonance was acute in respect of the autonomy expected and experienced, salary, working cultures, work-life balance and quality of work. These tensions were experienced most profoundly by paralegals. Not only had their expectations of legal practice had not been met, their day to day motivations were further undermined by expectations of precarious professional futures.

Although support was valued by the Millennials, perhaps unsurprisingly given its centrality to the core narrative of professionalism,<sup>135</sup> they held strong expectations of professional autonomy. Moreover, firms were explicit about their desire for younger lawyers to take greater responsibility, for example in networking opportunities, working independently and instinctively understanding professional expectations. However, expectations of autonomy were not met in practice.<sup>136</sup> The inability to control individual schedules of work on any given day was a source of stress for many participants:

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<sup>132</sup> HR Directors/Partners also expressed the view that private provider law schools were admitting too many students with unrealistic expectations.

<sup>133</sup> See also Francis above n107, pp184-5

<sup>134</sup> Sutton and Griffin above n148

<sup>135</sup> L Cennamo and D Gardner (2008) ‘Generational Differences in work values, outcomes and person-organisation values fit’ (2008) 23 *Journal of Managerial Psychology* 891, suggest Millennials value their autonomy even *more* than previous generations.

<sup>136</sup> Boon similarly found autonomy and control were of critical importance to earlier cohorts of younger lawyers above n10, p252, which appears to indicate the durability of the discourse, if not its reality.

You've got a task list, you know your deadline, you can manage it but then a partner will come to you and say, 'oh have you done that yet?'... 'no, because you said the deadline's next week,' 'oh no, I need it now,'... I had a plan, I knew what I was doing and now I've just thrown it all out of the window... it's just when somebody else messes up my time and my organisation that annoys me and stresses me out. (Female, Trainee MG1)

There was a desire for control, but they were frequently unable to maintain workplace autonomy and, as a consequence, control the balance between their personal and working lives. Furthermore, their time was seemingly not valued by those more senior.

Salary concerns also highlight the gap between expectations and reality for the Millennial lawyers, particularly for paralegals. The paralegal is already working in a role they did not envisage themselves undertaking when they began studying.<sup>137</sup> There is also considerable lack of clarity about the nature of this liminal role, and about their position in times of economic downturn. Being the lowest in a clearly understood hierarchy was keenly felt:

It was a much less secure job as a paralegal... you feel like the axe is always there so to speak... you're the most junior, you're the most expendable. (Female, Trainee MG2)

These heightened pressures are compounded by low salary. Paralegals were the *most likely* survey respondents to say their salary was the worst thing about their firm, and this was a recurring theme within the focus groups:

A lot of people are having to put time in as paralegals before they become trainees, *you're really kind of putting people's lives on hold*. You can't get a mortgage on a paralegal's salary so then you're kind of stuck on... low salary, high expenditure... you

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<sup>137</sup> M Hardee (2014) *Career Expectations of Students on Qualifying Law Degrees in England and Wales* ([https://www.heacademy.ac.uk/system/files/resources/hardee\\_interimreport\\_2014final.pdf](https://www.heacademy.ac.uk/system/files/resources/hardee_interimreport_2014final.pdf)) p13

would not be able to afford living on your own or even living in a house share, you'd have to live with your parents. (Female, Trainee MG1)

Even once qualified, the Millennials compared their earnings to those of peers in other professions negatively:

I think it's the expectation that you will get, not a lot, but more than what you get...because it can be a really slow process to actually qualify<sup>138</sup> you're a fully grown up person with a salary of like almost a student...you want to...get married or get a house and your salary, you can't even imagine to do this stuff. And then you see other people from different professions...who can afford all this stuff because they are on more decent salaries because they didn't have to wait ten years until they qualified. (Female, Trainee MG1)

The comparisons across professions – and the length of time taken to reach certain salary levels – is understandable in the context of the financial challenges facing Millennials.<sup>139</sup> It takes longer to qualify, on lower salaries, following an extended investment in higher and professional education, which clashes with expectations of law as a high status and well-remunerated profession. Their salary levels are not felt to compensate for this gap between expectations and the reality of organisational and professional cultures.

The younger lawyers occupy a field position that makes confronting the disappointment of unmet expectations challenging. This discomfort can be a source of stress, anxiety and departure. Startlingly, nearly 60 per cent of survey respondents had considered leaving the

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<sup>138</sup> In July 2018, the mean age of men with practising certificates was 46.0; of women 40.5. The average age of solicitors admitted to the roll in 2017-18 was 29.2 for women; 29.6 for men (The Law Society *Trends in the Solicitors' Profession Annual Statistics Report 2018*, p.14 and 40)

<sup>139</sup> Millennials typically earn £8000 less during their 20s than the previous generation did at the same age. <https://www.resolutionfoundation.org/publications/stagnation-generation-the-case-for-renewing-the-intergenerational-contract/>

profession,<sup>140</sup> but many felt trapped by their investment. The profession didn't generate the promised interesting work (a key motivation for the respondents joining the profession), and this was not balanced by benefits in terms of salary and work-life balance:<sup>141</sup>

It would have amounted to a personal failure if I had ducked out after having put so much time, money and energy into becoming a Solicitor. Having qualified, the work is still dull, there is far too much pressure piled onto Solicitors, there is an unwritten rule that we work past our official finish times on a daily basis....We get abuse from clients...I think about quitting on a near daily basis, but still struggle with leaving it entirely after the huge sacrifices that were made to get here. (Female Solicitor, 2-5 years PQE, 26-30)

In addition to those considering leaving the profession, to reiterate, there were also reports of anxiety and stress.<sup>142</sup> As discussed above, stress is accepted as a routine part of the profession. However, a further dimension of stress for younger lawyers can be characterised as this gap between the images presented to them of the profession,<sup>143</sup> and the reality of their experiences.

I think, ironically, the hours aren't as bad as what I expected them to be but the stress is worse...There's that professional expectation, the self-expectation that most of the time, you want to do a good job and this is the kind of work you're going into. Obviously, at the end of the day, you want to keep your job as well, so you don't want to be putting a decimal point in the wrong place when you're sending your BACS payment off. (Male, Solicitor MG2)

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<sup>140</sup> For similar findings, see J Sturges and D Guest 'Don't leave me this way! A qualitative study of influences on the organisational commitment and turnover intentions of graduates early in their career' (2001) 29 *British Journal of Guidance and Counselling* 447, and Boon above n10, p249

<sup>141</sup> Sturges and Guest Ibid, pp459-60 highlight the relationship between expectations and staff turnover

<sup>142</sup> A finding mirrored by legal mental health charity, LawCare <https://www.lawcare.org.uk/news/calls-to-lawyer-helpline-about-bullying-and-harassment-increase>.

<sup>143</sup> Collier above n159



The effects of stress included physical effects culminating in periods of absence from work:

The headaches can be more regular. You can have nerves if you know there's a big deadline coming up and you haven't necessarily managed your time perfectly that week and you need to get this in by tomorrow. I can feel quite sick from time to time. It can be quite physical and not just worry. (Male, Solicitor MG2)

The Millennial sample was not work-shy, ill-informed or lazy. Rather, the expectations of professional practice have been framed by the socio-educational context in which their preparation for legal professional practice has been forged. They understand the profession will be high-pressure and stress a core part of it. However, they have faced contradictory messages throughout their education and formative engagements with the profession. On the one hand, autonomy, responsibility and a well-regarded, highly remunerated professional career are held out to them.<sup>144</sup> Yet, their experiences of limited autonomy in working life, as well as delayed personal and financial security, contradict these expectations. This 'psychological violation'<sup>145</sup> undermines their continuing commitment to the profession, and frames their willingness to challenge organisational and professional norms, in particular, in relation to work-life balance and management practices.

#### TALKING ABOUT GENERATION: STRUCTURE, AGENCY AND CHANGE

In contrast to the popular view of Millennials as being out of step with the mainstream, there were strong commonalities across the different groups in our study around, for example, the importance of work-life balance. There were some differences in recognising the precariousness of paralegals and the importance attached to that role by desperate prospective

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<sup>144</sup> Ibid, pp64-65

<sup>145</sup> Sutton and Griffin above n148

solicitors. Younger women were also much more willing to provide examples of the ways women lawyers experienced gendered disadvantage, notwithstanding the headline progress.<sup>146</sup> Overall, however, there was common ground both within our focus groups and field-level norms; for example regarding the appropriate expectations to place on lawyers, how the demands of clients ought to be responded to, and the features of a ‘good’ workplace environment.<sup>147</sup>

Notwithstanding this, we argue generations matter in understanding organisational change and contemporary legal practice. Foster argues ‘generation’ is a key construct in ‘working life’ stories in two ways; as an axis of difference – ‘the entitled younger generation etc’, and as a socio-historical dynamic.<sup>148</sup> Thus, although we identified few *actual* differences between the Millennial lawyers sampled, and those in our partner and HR groups, the idea of ‘generation’ is still invoked and can perpetuate existing structures,<sup>149</sup> as well as legitimise the speakers’ position in relation to these structures.<sup>150</sup>

The ‘Millennial’ theme was introduced in the call for participants.<sup>151</sup> Crucially, however, the label was invoked differentially by participants. Members of the non-Millennial groups (HR Directors and Partners) were much more likely to use the term than the Millennials themselves. This was frequently (although not uniformly) done negatively; including a lack of

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<sup>146</sup> N Worth, ‘Feeling precarious: Millennial women and work’ (2016) 34 *Environment and Planning D: Society and Space* 601, p605

<sup>147</sup> For similar findings among accountants see T Fogarty, A Reinstein, and R Heath “‘Are Today's Young Accountants Different?’” An Intergenerational Comparison of Three Psychological Attributes’ (2017) 31 *Accounting Horizons* 83

<sup>148</sup> Foster above n56, p206-211.

<sup>149</sup> It should be noted some of those in management welcomed the opportunity to consider different models of working.

<sup>150</sup> Many thanks to Hilary Sommerlad for discussion of this point.

<sup>151</sup> In the participants’ advert we made it clear we were not un-questioningly using the term, but recognised its currency within the trade press.

organisational loyalty,<sup>152</sup> requiring instant gratification, and generally less robust in taking criticism.<sup>153</sup> One Partner's example exemplifies common refrains:

I had one guy ... he did a blog for us, absolutely atrocious, called him in, told him to go back and do it again. He said, 'I'm not doing it again'...and I was sort of sitting there absolutely flabbergasted thinking this is an opportunity for you to learn. (Male, Partner)

What was striking was that the older groups explicitly identified younger lawyers as 'the other,' and were prepared to ascribe characteristics to them on the basis of generational membership. There were frequent references to an 'othering' 'they' and 'them.'<sup>154</sup> There have, of course, always been concerns about the 'next generation' or the 'youth of today.'<sup>155</sup> However, Millennials appear to be particularly negatively tarred with a wide range of derogatory characteristics.

When Millennials in our sample were described negatively - often with the most extreme anecdotes invoked to support assertions about 'widespread' patterns of behaviour; 'some of the things that you hear, you're astounded by. For example, ringing up when it's snowing and saying, 'I can't come to work today because I've not got suitable shoes' (HR, female) - this discursively frames Millennials, and their concerns, as lacking rationality / standing to challenge accepted professional norms. The Millennials themselves sarcastically repeated comments they had heard made about their generation; 'I am a millennial. I'm going to go out and get drunk and then go to work drunk' (Female, Solicitor MG2). This discourse

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<sup>152</sup> There are some limited differences between Gen Xers and Millennials, 'indicating that the younger generations were more inclined to leave their organization than the older generation' (Costanza above n57, p382).

<sup>153</sup> Foster above n56

<sup>154</sup> See M Pickering *Stereotyping: The politics of representation*. (New York: Palgrave, 2001)

<sup>155</sup> S Cohen *Mobs and Rockers* (London: Routledge: first pub, 1971); S Fineman *Organizing Age* (Oxford: OUP, 2011), p41

marginalises any challenge to the norm that is presented as emerging solely from the younger generation as similarly irrational and inconsequential and presents them as dislocated from mainstream concerns.<sup>156</sup>

The generations captured in our study share many of the paradigmatic values of legal practice.<sup>157</sup> In the case of the Millennial lawyers it is important to recognise this appeared to be expressed in a natural, ‘taken for granted’ manner. Those aspects that presented themselves most clearly as examples of the Millennial lawyers ‘going with the grain’ of the expectations are, we would argue, some of the most dominant and *expected* field logics; for example, the centrality of the client in driving the business needs of the firm,<sup>158</sup> and of traditionally framed professional responsibility.<sup>159</sup> These field logics assumed dominance during the time of formative educational and professional engagements of these young lawyers and are perhaps less compromised by the gap between education/recruitment framed expectations and reality. They are too naturally part of the field logics for alternative values to be readily articulated, and remain unchallenged.

There were, however, examples of the Millennials’ expectations of practice not being met, which generated real distress. Rather than this being attributable to generational values, we suggest these practice demands not being internalised so instinctively may also be attributable to the socio-historical context framing the educational and job-seeking experiences of these lawyers. For example, in respect of the Millennial lawyers’ demand for a different kind of

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<sup>156</sup> Foster, above n56, p209

<sup>157</sup> We should also acknowledge the possibility of self-selectivity with lawyers identifying firms or practice settings close to their values. For a discussion of this with a small sample, see E Rowan and S Vaughan “‘Fitting in” and “opting out”: exploring how law students self-select law firm employers’ (2018) 21 *The Law Teacher* 216

<sup>158</sup> Thornton above n109, p24

<sup>159</sup> Vaughan and Oakley above n110, pp64-65

work-life balance, their parents' careers developed during the birth of the highly corporatised environment in the 1980s.<sup>160</sup> A plausible hypothesis is that they do not wish for themselves (or their children) the work experiences of their parents – 'my wife and I discussed it; would we recommend our son become a solicitor? We both said no' (Male, Solicitor MG2). Similarly, the readiness with which practice concerns were framed in emotional terms and a desire for a relational approach to law firm management, might be linked to the increasing prominence of mental health and wellbeing in public discourse and within university support structures, allied with the immediacy of sharing emotional state through social media.

In reflecting on the capacity of this new generation of lawyers to effect organisational and institutional change, we suggest it is easier to advocate values which run counter to established institutional logics, when those institutional logics are already less secure and open to challenge. Battilana argues agency in effecting organisational change is heavily dependent upon field location.<sup>161</sup> The Millennial lawyers do not occupy a strong field location. They are necessarily at the bottom of the professional hierarchy, and many are in precarious positions as paralegals or trainees. Secondly their vulnerability is reinforced by the sense it is a buyers' market ('it's cheap labour and that's all it is. They can fill it because they've got 10,000 people coming through the office every year'). Thirdly, their subordinate field position is reinforced by the generational discourse,<sup>162</sup> repeated by Partners and HR Directors in our sample, which posits Millennials as 'entitled', 'work-shy', and 'flaky'. Moreover, there are far more women in the entry levels of the profession,<sup>163</sup> and it was these younger women who, in our sample, reported particular challenges in terms of discriminatory and inappropriate behaviour,

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<sup>160</sup> J Pencavel, *Diminishing returns at work: the consequences of long working hours* (Oxford: OUP, 2018).

<sup>161</sup> above n32, pp668-671

<sup>162</sup> Twenge above n42; see Ipsos MORI, above n66, for an account of the myths and realities of the Millennial generation.

<sup>163</sup> Aulakh et al above n89, p18

compounded by a lack of appropriately supportive role models.<sup>164</sup> The field position of Millennial lawyers means their capacity to even articulate divergent professional values, let alone effect change, is severely compromised. Only those logics that are most closely linked to their unmet expectations, or those that may already be less secure appear likely to generate divergence.

Collier suggests that where wellbeing concerns are taken on board by firms, they continue to align with the neoliberal imperatives of corporate practice.<sup>165</sup> Perhaps what the socio-historical context reveals is that while those in marginal positions (such as junior lawyers) within the professional hierarchy struggle to challenge the expectations of the field, organisational and cultural change may take place when this aligns with the needs of the organisation/profession. Moreover, if the profession and/or organisation does make changes, then if it presents these as a response to the concerns of the ‘other’ (in this case Millennials), it can reinforce the message the profession is responsive to changing social demands (even if in reality the fundamental norms and logics of the professional field remain relatively untouched). This suggests that although organisational and professional expectations may change over time, and successive generations within the field may shape these new structures,<sup>166</sup> the emergent structures will reflect existing patterns of authority.

## CONCLUSION

The socio-historical context which informs our analysis of individuals’ interaction with their organisational and professional cultures<sup>167</sup> demonstrates that, in contrast to dominant tropes

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<sup>164</sup> See further Worth above n177

<sup>165</sup> Collier above n111, p51

<sup>166</sup> Archer above n19, p71

<sup>167</sup> See M Spaeth and K Kosmala ‘Identification Through Dis-identification: A Life Course Perspective on Professional Belonging’ (2012) 17 *Architectural Theory Review* 216 for the use of a similar lens in discussions of the identity of female architects.

within the profession, Millennial lawyers do not appear to carry a wholesale set of attitudes and values that will transform practice. Rather, many of the prevailing professional logics are so well established, and the Millennial lawyers generally occupy such marginal field positions, that it appears difficult for them to challenge these structures. Nonetheless, real discomfort is experienced, not least because the expectations of professional life which have supported their difficult journeys through education and job-hunting have not been met. The ongoing liminality in many aspects of the roles they hold within legal practice generates further uncertainty and concern. This raises key challenges for legal education and the profession.

Legal education has been asked to think carefully about its relationship with the profession by the SQE proposals. Irrespective of the choices Law Schools make, there will be a continuing need to ensure students have an informed understanding and realistic expectation about, what remains, the single largest sector in which our graduates seek careers. However, this requires careful thought. Reich refers to law students wearing a ‘social mask’ and acting as they think is expected of them.<sup>168</sup> Universities could, for example, undertake further research to understand what expectations are communicated to students before and during their legal education. Bleasdale and Humphreys, for example, identify the potential difficulties when particular models of success are communicated to students.<sup>169</sup> As legal educators we have a responsibility to communicate multiple pathways of success to our students, and to support them in developing self-care techniques.<sup>170</sup> Greater use of collaborative working and assessment may also disrupt some of the individualisation of legal academic work seemingly connecting to approaches in practice. This paper has highlighted the power of the structuring

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<sup>168</sup> S Reich (1976) ‘California Psychological Inventory: Profile of a Sample of First Year Law Students’ 39 *Psychol. Rep.* 871, cited in S Daicoff ‘Lawyer, Know Thyself: A Review of Empirical Research on Attorney Attributes Bearing on Professionalism’ (1997) 46 *American University Law Review* 1337, pp1374-1375

<sup>169</sup> Bleasdale and Humphreys above n69, pp35-37

<sup>170</sup> *Ibid*, pp65-6

properties of the legal field: as legal educators we face a difficult balancing act in ensuring future lawyers are able to cope with field expectations,<sup>171</sup> while not perpetuating those aspects of practice detrimental to health and well-being.

There is a challenge for the profession too. There was significant unhappiness among the Millennial lawyers about many aspects of legal practice. There was particular concern about the ‘cliff-edge’ nature of qualification and the lack of post-qualification support, which should be of concern to the SRA and firms. The unhappiness was compounded by a narrative of ‘being trapped’. Such were the sacrifices made that, while exit had been contemplated, it was not a realistic option for most. This should further enhance the need to pay attention to mental health concerns within the profession.<sup>172</sup> The prevailing sense is that many of these established logics are difficult to change (particularly by those occupying marginal field positions). However, the fact the Millennials drew on diverse examples of organisational cultures (including moving from workplaces with harmful cultures), suggests structural change does occur: individual firms can determine their own cultures and, in doing so, can potentially influence the culture of the wider industry.

Paying close attention to the Millennial generation enables us to look at the context within which all lawyers practice. Legal educators and the profession need to continue these conversations including discussions about technological change, new delivery models and organisation forms, for the benefit of lawyers of all generations, and indeed the future health of the profession as a whole.

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<sup>171</sup> See Krakauer and Chen above n5, p66 and p74-77

<sup>172</sup> <https://www.lawgazette.co.uk/commentary-and-opinion/law-students-and-junior-lawyers-need-more-support/5067873.article>



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